NO. 93-649

IN THE SUPREME COURT
OF THE
UNITED STATES OF AMERICA

Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

September, 14 1993

Charles L. Holden, Jr.,
Petitioner

vs

Regional Airport Authority of Louisville and Jefferson Co., KY.
Respondent

PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Charles L. Holden, Jr.,
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14 pp

QUESTION PRESENTED

Petitioner, Charles L. Holden, Jr., repsectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Sixth Circuit refusing to overturn decision of Judge Rubin on October 28, 1992, case no. C91-0004. The above ruling states, "Holden and Mr. Paalz occupied the same single family dwelling unit, and together they were entitled to no more than the maximum benefit of $4,000.00 as set forth in the Relocation Act of 42 U.S. C. 4624."

Point: Is the law recognizing two males as being a family because of the dwelling they move from, and thus limiting their benefit? (The intent of the law states the contrary.)

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Sixth Circuit Court Of Appeals Order, 6/15/93.

OPINIONS BELOW

The opinion of the Court of Appeals is that of making new law. Point: Two men are not a family, and thus, harassment and halfing one's benefit is NOT LAWFUL.

The above ruling is not Constitutional on the following grounds:

1) EQUAL PROTECTION CLAUSE of U.S. Constitution
2) PRIVACY ACT, "fundamental rights" within U.S. Constitution
3) COMMON LAW

In one (1) Equal Protection, Holden was not given the same benefit as all other individuals in the relocation area, nor was the Relocation Act law followed. See transcript of Mr. Russell, Esq. (Oct. 28, 1992).

In two (2) Privacy Act, I have a fundamental right to due process and to be considered as an individual. But if the law allows two men, not related by consanguinity, to be considered to reside in a "single family dwelling unit", and be "regarded as one person", then either I am denied my due process as an

individual, or the law should be changed regarding the definition of a family.

In three (3) Common Law:

a.) Citizen's right to be free of prejudice.

b.) A state official, acting in their official capacity, is to be free of prejudice.

JURISDICTION

The Court of Appeals' Opinion in this matter was filed on June 15, 1993. This petition is within the 90 day time limit (1st mailed August 16, 1993; 2nd mailing September 14, 1993; 3rd mailing October 9, 1993).

CONSTITUTIONAL PROVISIONS INVOLVED

Regional Airport of Louisville and Jefferson Co., KY did bulldoze residence at 541 Harding Ave., summer of 1983, against Amendment IV, of the Constitution of the United States. "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or afffirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Points: The bulldozing of premises constituted seizure. The house was made structurally unsound, water was caused to leak in, and protection from inclement weather was compromised.

Amendment VII, "In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law." Petitioner filed for, and was denied a jury trial of the issue, and attornies were released from the case.

Amendment XI, "The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people." These certain rights are not open to interpretation by statutes, but by common law. Mr. Pat Hall chose an obscure statute, dealing with people who move to unsafe, indecent, unsanitary housing, and interpreted it as being licensed to count two men as a family. This is unlawful.

Amendment XIV, (Section 1.), "All persons born or naturalized in the United States, and subject to the

jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Due process was denied the Petitioner several times in this 10 year struggle, specifically: no answer to appeal filed by Atty. Blankenship, on or about 1985; eviction hearing before 90 days noticed to vacate had expired.

STATEMENT OF THE CASE

The Regional Airport Authority of Louisville and Jefferson Co., KY did:

1.) Not give Petitioner proper notice (see letter dated 8/19/1983, appendix F, "Compliance With Final Pretrial Order".

2.) Paid one-half the relocation benefit.

3.) Turned off water to the house, before Eviction Court hearing was held (see "Transcript Of Proceedings", 10/28/1992,

testimony of Mrs. Wade; and Eviction Court transcript, dated 10/28/1983.)

4.) Turned off electricity to the house, before Eviction Court hearing was held (see "Transcript Of Proceedings", 10/28/1992, testimony of Mr. White; and Eviction Court transcript, dated 10/28/1983.).

5.) Bulldozed the house and generally harassed the Petitioner, including:

a.) Mr. Dunlap slammed door closed against the Petitioner as he was leaving, striking the Petitioner's heel.

b.) Mr. Dunlap lunged at Petitioner, while on Petitioner's premises.

6.) Mr. Dunlap lied to the Courier Journal newspaper, of Louisville, KY, and to Atty. Elaine Duncan, of Louisville, KY.

7.) Appeal filed by Atty. Blankenship (on or about December, 1985) was never answered by Regional Airport Authority of Louisville and Jefferson Co., KY.

REASONS FOR GRANTING THE WRIT

Certiorari should be granted for reasons:

1.) Not given due process (see January 1993 Appeals Brief).

2.) Equal Protection under the law (see transcript of Mr. Ron Russell, pages 31 to 37).

3.) A state official, acting in their official capacity, is to be free of prejudice. Mr. Pat Hall lied to the Federal Court. (He knows the case most clearly.)

CONCLUSION

This Pro Se litigant respectfully requests a writ of certiorari for the above reasons, to review the judgment and opinion of the Court of Appeals in this matter.

Very truly yours,

Charles L. Holden, Jr.

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APPENDIX

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

NO. 92-6632 (FILED JUNE 15, 1993)

Charles L. Holden, Jr.,

Plaintiff-Appellant (Petitioner)

v.

REGIONAL AIRPORT AUTHORITY OF LOUISVILLE AND JEFFERSON COUNTY,

Defendant-Appellee,

FEDERAL AVIATION ADMINISTRATION,

Defendant

BEFORE: GUY and SUHRHEINRICH, Circuit Judges, and JOINER, Senior District Judge.*

ORDER

Charles L. Holden, Jr., a pro se Kentucky litigant, appeals a district court order dismissing his civil action for relocation benefits brought pursuant to the Uniform Relocation Assistance and Real Property

* The Honorable Charles W. Joiner, Senior U.S. District Judge for the Eastern District of Michigan, sitting by designation.

Acquisition Policies Act, 42 U.S.C. §§ 4601-4655 (the "Relocation Act"). The defendant has filed a motion to dismiss the appeal for lack of jurisdiction. This case has been referred to a panel of the court pursuant to Rule 9(a), Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

The action arose from Holden's claims that he did not receive the proper amount of relocation payment and rental assistance when he was forced to move from his apartment because of the airport expansion at Standiford Field in Louisville, Kentucky and that he was allegedly discriminated against and harassed by the Regional Airport Authority ("RAA"), in its 1983 determination of the amount of relocation benefits because he is gay. The RAA determined that for the purposes of relocation payment and rental assistance, Holden and his cotenant Paalz were a family and entitled to a payment of $4,000 to be shared between them. Holden named two defendants, the RAA and the Federal Aviation Administration.

A non-jury trial on the matter was held on October 28, 1992, at which time testimony and

evidence was presented. On November 12, 1992, the district court entered its findings of fact and conclusions of law. The court concluded that Holden received the maximum benefit allowable under the Relocation Act and dismissed the complaint accordingly. On November 18, 1990, Holden filed a motion for a new trial or for findings of fact on the issue of discrimination. On November 20, 1992, the court entered an order amending the November 12, 1992, findings of fact and conclusions of law. The court found that Holden failed to show that RAA used discriminatory means or intent in determining the amount of relocation benefits and concluded that Holden's claim for emotional distress was time-barred under the laws of Kentucky. This appeal followed.

Initially, we deny defendant's motion to dismiss the appeal for lack of jurisdiction. Although the notice of appeal was filed prior to the district court's December 10, 1992, order denying Holden's motion for a new trial, a review of the record reveals that a transcript order form was filed December 21, 1992. A document which meets the requirement of Fed. R. App. P. 3 and 4 evincing an intent to appeal is

properly treated as a notice of appeal. *Cf. Smith v. Barry*, 112 S. Ct. 678, 681-82 (1992) (appellate brief can be a notice of appeal). The transcript order form evidences an intent to appeal as it indicates the proceedings appealed from and the parties who are appealing. The transcript order form, therefore, qualifies as a timely notice of appeal.

We also hold that HUD regulation 24 C.F.R. § 42.13 is not applicable because HUD is not involved and further, that section specifically provides that two or more individuals who live together in a single family dwelling "shall be regarded as one person."

Upon review, we affirm the district court's decision because a review of the record shows that the factual findings of the district court are not clearly erroneous. *Anderson v. City of Bessemer City*, 470 U.S. 564, 573 (1985). The record is completely void of any evidence that the RAA used discriminatory means in determining the amount of relocation benefits due Holden or that it harassed Holden.

Upon further review, we conclude that the district court correctly concluded that Holden received the maximum benefit allowable under the Relocation

Act. *See* 42 U.S.C. §§ 4601, 4621 and 4624. Contrary to Holden's claim, he and Mr. Paalz occupied the same single family dwelling unit, and together they were entitled to no more than the maximum benefit of $4,000 as set forth in the Relocation Act at 42 U.S.C. § 4624(a). The remaining arguments on appeal lack merit.

Accordingly, the district court's order is affirmed pursuant to Rule 9(b)(3), Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT

Leonard Green (?)

Clerk

Retyped by Charles L. Holden, Pro Se.